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Walker & Jocke

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JUL 25 2007

D-1222 R5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	
Graef, et al.	)	
Application No.: 10/797,331	)	Art Unit 3654
Confirmation No.: 4299	)	
Filed: March 9, 2004	)	Primary Examiner
Title: ATM Currency Presenter	)	Rakesh Kumar
Gate Arrangement	)	

Refunds Section  
Receipts Division  
Office of Finance  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

Please enter Applicants' "Request for Refund", without prejudice, as follows:

- 1 -

### REQUEST FOR REFUND

The Office mailed a final Office Action dated November 17, 2006. Later the Office (via the Notice of Allowance dated May 22, 2007) acknowledges that the mailing of the final Action was a mistake on the part of the Office. Within the time period between the initial mailing of the final Action and the Office's acknowledgment, the Applicants incurred fees directly associated with the initial mailing. Because the initial mailing was a mistake, any fees paid in response thereto were also a mistake. That is, because the initial mailing of the final Action was a mistake, fees were paid by Applicants when no fees were required. Thus, Applicants respectfully request a refund of these paid fees.

The evidence of record can be found on the PAIR system of the USPTO. This evidence shows the Office's inferred acknowledgment that mailing the final Action was a mistake. The evidence also shows that the same arguments were presented by Applicants in each of three different Responses, i.e., their Response (dated August 25, 2006) prior to the final Action, their Response (dated January 31, 2007) to the final Action, and their Pre-Appeal Brief Request for Review (dated April 12, 2007). Even though Applicants presented the same argument on three separate occasions, the Office did not allow the application (as a result of this same argument) until after the \$500 fee for Pre-Appeal Brief Request for Review was submitted by Applicants.

For example, with regard to claim 2 Applicants continually repeated verbatim the same argument that "Weigel further does not teach a presenter gate that moves *upward* during opening. Conversely, the alleged gate (42) (i.e., the folding flap of the currency container 14) in Weigel moves downward during its opening (e.g., col. 6, lines 45-49)". Evidence in the record that this same argument was repeatedly made by Applicants can be found at page 20, last line to page 21

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line 2 in their August 25, 2006 Response; at page 18, lines 1-5 in their January 31, 2007 Response; and at page 3, lines 3-6 in their April 12, 2007 Pre-Appeal Brief Request for Review.

For further example, with regard to claim 18 Applicants continually repeated verbatim the same argument that "Weigel also does not teach the recited relationship between the gate and pin, where the gate moves in an opening direction as the pin moves upward. Conversely, as the alleged pin (68) in Weigel is pulled upward, the alleged gate (42) moves to close (instead of open)". Evidence in the record that this same argument was repeatedly made by Applicants can be found at page 21, lines 12-14 in their August 25, 2006 Response; at page 18, lines 9-11 in their January 31, 2007 Response; and at page 3, lines 12-14 in their April 12, 2007 Pre-Appeal Brief Request for Review.

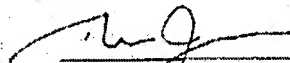
The above evidence of record also shows that the Office admits (via the Notice of Allowance) that any fee paid in responding to the final Action would have been paid when no fee was required. For example, because the Applicants twice made the same argument before it was again repeated in their Pre-Appeal Brief Request for Review, and the application was allowed based on this same argument, this application should have been allowed prior to the Pre-Appeal Brief Request for Review. As a result, the Pre-Appeal Brief Request for Review was not needed. Thus, Applicants respectfully request a refund of the following paid fees:

<u>Fee</u>	<u>Paper</u>	<u>Date Filed</u>
\$500	Notice of Appeal	April 12, 2007

The total fees paid by Applicants due to the mistaken mailing of the final Action amount to \$500. Applicants request that the Office rightfully refund \$500 to Deposit Account 09-0428.

The undersigned is willing to discuss the refund by telephone at the Office's convenience.

Respectfully submitted,



Ralph E. Jocke Reg. No. 31,029  
WALKER & JOCKE  
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Medina, Ohio 44256  
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JUL 25 2007



a legal professional association

Ralph E. Jocke

Patent  
&  
Trademark law**FACSIMILE TRANSMISSION COVER SHEET**

TRANSMITTING: 6 PAGES (INCLUDING THIS PAGE)

NAME: Refunds Section  
Receipts Division  
Office of Finance  
Commissioner for Patents  
U.S. Patent and Trademark Office

FAX NUMBER: (571) 273-8300

SENDER: Ralph E. Jocke, Esq.

FAX NUMBER: (330) 722-6446

PHONE NUMBER: (330) 721-0000

COMMENTS: Attached is Request for Refund regarding Application 10/797,331  
(Docket No. D-1222 R5).

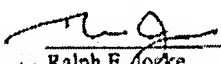
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**CERTIFICATION UNDER 37 C.F.R. SECTIONS 1.8(b) AND 1.6(d)****FACSIMILE TRANSMISSION**

I hereby certify that, on the date shown below, this correspondence is being transmitted by facsimile to the Patent and Trademark Office at (571) 273-8300.

Date: 7/25/2007

  
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July 24, 2007

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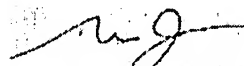
Re: Application No.: 10/797,331  
Confirmation No.: 4299  
Applicants: Graef, et al.  
Title: ATM Currency Presenter Gate Arrangement  
Docket No.: D-1222 R5

Sir:

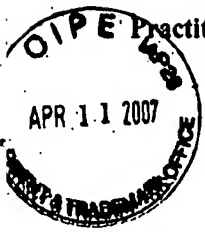
Please find enclosed a "Request for Refund".

The Commissioner is authorized to credit any fee to Deposit Account 09-0428.

Very truly yours,



Ralph E. Jocke  
Reg. No. 31,029



Practitioner's Docket No. D-1222 R5

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/797,331  
Appellants: Graef, et al.  
Filed: March 9, 2004  
Title: ATM Currency Presenter  
Gate Arrangement

Confirmation No. 4299  
Art Unit 3654  
Examiner Rakesh Kumar

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Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE  
BOARD OF PATENT APPEALS AND INTERFERENCES (37 C.F.R. 41.31)**

Appellants hereby appeal to the Board from the decision of the Primary Examiner, mailed November 17, 2006, regarding all unallowed claims (including rejected claims 2-21).

**1. STATUS OF APPELLANTS**

This application is on behalf of other than a small entity.

**2. FEE FOR FILING NOTICE OF APPEAL**

Pursuant to 37 C.F.R. 41.20(b)(1), the fee for filing the Notice of Appeal is:

Other than a small entity	\$500.00
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Notice of Appeal fee due	\$500.00
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4/16/2007 HDESTA1 00000002 090428 10797331

1 FC:1401 500.00 DA

(Notice of Appeal from the Primary Examiner to the Board—page 1 of 2)

Adjustment Date: 08/10/2007 SDIRETA1  
16/2007 HDESTA1 00000002 090428 10797331  
FC:1401 500.00 CR